

RESPONSIVENESS SUMMARY
RECORD OF DECISION AMENDMENT No. 2
CHEMTRONICS SUPERFUND SITE

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE No.</u>
1.0 OVERVIEW	1
2.0 BACKGROUND	1
3.0 SUMMARY OF MAJOR ISSUES/CONCERNS/QUESTIONS/STATEMENTS VOICED DURING PROPOSED PLAN PUBLIC MEETING AND RESPONSES	3
4.0 SUMMARY OF MAJOR ISSUES/CONCERNS/QUESTIONS/STATEMENTS VOICED DURING PUBLIC COMMENT PERIOD	

ATTACHMENTS

Attachment A – Transcript of July 12, 2016 Public Meeting

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1.0 OVERVIEW

The development of this Responsiveness Summary is in accordance to the requirement set forth in 40 CFR Section 300.430(f)(3)(i)(F). This community relations Responsiveness Summary is divided into the following sections:

Section 2.0 BACKGROUND This section discusses the Environmental Protection Agency's preferred alternative for remedial action and provides a brief history of community interest.

Section 3.0 SUMMARY OF MAJOR ISSUES/CONCERNS/QUESTIONS/ STATEMENTS VOICED DURING PROPOSED PLAN PUBLIC MEETING This section provides a summary of issues/concerns and questions/comments voiced by the community and responded to by the Agency during the Proposed Plan public meeting. The "community" may include local homeowners, businesses, the municipality, and not infrequently, and potentially responsible parties.

Section 4.0 SUMMARY OF MAJOR ISSUES/CONCERNS/QUESTIONS/ STATEMENTS VOICED DURING PUBLIC COMMENT PERIOD This section provides a comprehensive response to all significant written comments received by the Agency and is comprised primarily of the specific legal and technical questions raised during the public comment period.

2.0 BACKGROUND

The Environmental Protection Agency (EPA) conveyed its preferred remedial alternative for Amending the 1988 Record of Decision (ROD) as modified by the 1989 ROD Amendment (Amendment No. 1) for the Chemtronics Superfund Site (Site) Proposed Plan public meeting on July 12, 2016. The Chemtronics property (Property) occupies approximately 1,065 acres of rural land in Buncombe County, North Carolina located at 180 Old Bee Tree Road, approximately 8 miles east of Asheville, in the community of Swannanoa. The Chemtronics Superfund Site (Site) is a sub-area of the property encompassing 535 acres. The Site was placed on the National Priorities List (NPL) in December 1982. The U.S. Environmental Protection Agency's (EPA) Site Identification No. is NCD095459392. The Property is bordered to the north, northeast, and northwest by sparsely populated woodlands, primarily national forests or state game lands. Unincorporated residential neighborhoods are located immediately east, west, and south of the Property (Bee Tree community, Dillingham Circle, and Old Bee Tree/Rainbow Ridge community, respectively). An inactive industrial facility (former RadioShack Swannanoa property) is located immediately south of the Property. Several more industrial facilities are located further to the south. Warren Wilson College is located approximately 0.75 miles south of the Property.

The topography of the Property is moderately sloping to steep, with elevation ranging from 2,200 to 3,400 feet above mean sea level (ft-msl). The Site lies on the southeast side of Bartlett Mountain and is moderately to heavily vegetated with mixed forest types including hardwoods and conifers. The Property is divided into two distinctly separate geographic areas commonly referred to as the Front Valley (FV) and the Back Valley (BV). A prominent ridge separates the FV and BV. The Unnamed Branch drains the FV and Gregg Branch drains the BV. Both of these streams discharge into the Bee Tree Creek which empties into the Swannanoa River approximately 4,500 feet (ft) downstream of the Site.

The Property was first developed and operated as an industrial facility in 1952. Prior to 1952, the Property was rural farm and dairy land. The Property has been owned and operated by Oerlikon Tool and Arms Corporation of America (1952 to 1959), Celanese Corporation of America (1959 to 1965), Northrop Carolina, Inc. (1965 to 1978), and Chemtronics, Inc. (1978 to present). The primary products manufactured on-Site were explosives, propellants, incapacitating agents, and a variety of specialty chemicals.

Manufacturing activities occurred primarily in the FV, and material testing and waste disposal occurred primarily in the BV. Manufacturing, testing, and disposal activities occurred on less than 200 acres of the 535 acre Site and were primarily located in the southern portion of the Site. Most of the manufacturing activities were discontinued by the late 1980's, and all manufacturing activities ceased in 1994. Various waste products and byproducts associated with the manufacturing of explosives, flares, military incapacitating agents (e.g., ortho-chlorobenzylidene malononitrile [CS] and 3-quinuclidinyl benzilate [BZ]), and various chemical intermediates were disposed of on-Site. The primary waste products included chlorinated and non-chlorinated solvents, acidic solutions, byproducts of the manufacturing processes, and solid waste such as gloves and coveralls.

A Community Advisory Group formed in 2013 and is called Swannanoa Superfund Community Advisory Group (SSCAG).

The Agency placed an ad in *The Asheville Citizens-Time* newspaper on July 11, 2016, to announce the ROD Amendment No. 2 Proposed Plan public meeting. The Public Meeting was held on July 14, 2016 at the Swannanoa Fire Station. At this meeting, representatives from EPA, NCDEQ, Altamont Environmental, Inc. (Altamont), and Geosyntec of North Carolina PC (Geosyntec) made presentations. Altamont presented the findings of the 2015 RI Report, Geosyntec presented the conclusions of the 2016 FS, and EPA/NCDEQ summarized the Proposed Plan. Altamont and Geosyntec are consultants for the PRPs. The audience was encouraged to ask their questions during the presentation. All four of these entities worked together to answer questions from the audience.

The Proposed Plan Summary Fact Sheet was distributed to the public on Friday, July 08, 2016 and the Proposed Plan was distributed via email to the SSCAG on Tuesday, July 12, 2016. The Proposed Plan acknowledged the SSCAG request for a 30-day extension to the standard 30-day public comment period. This would allow the SSCAG to meet in August 2016 to formulate their comments on the July 14 Proposed Plan presentation. The 60-day public comment period on the Chemtronics ROD Amendment No. 2 Proposed Plan ran from Thursday, July 14, 2016 through the close of business on Monday, September 12, 2016. All documents used to make the decision specified in this Amendment can be found in the Administrative Record and the information repository which are maintained at EPA Region 4's Superfund Record Center located at 61 Forsyth Street, Atlanta, Georgia and at the Ellison Library on the campus of Warren Wilson College, 701 Warren Wilson Road, Swannanoa, North Carolina.

3.0 SUMMARY OF ISSUES/CONCERNS/QUESTIONS/STATEMENTS VOICED DURING PROPOSED PLAN PUBLIC MEETING AND RESPONSES

The questions/concerns expressed during the Proposed Plan public meeting can be grouped into the following main categories: past disposal practices/disposal areas, past manufacturing activities,

identified areas of concern/contamination, size/stability of identified plumes and defining extent of contamination, length of remedial action/monitoring, institutional controls/Site boundary/redevelopment of Site and/or property, and truck traffic/wear and tear on roads. Due to the volume of questions asked (approximately 50) during the Proposed Plan presentation and at the end of the presentation during the Question and Answer portion of the meeting, it is not feasible to list each question and the response here. The reader is referred to **Attachment A** of this Responsiveness Summary for a copy of the Proposed Plan public meeting transcript. The transcript captured each question followed by the response to the question.

4.0 SUMMARY OF ISSUES/CONCERNS/QUESTIONS/STATEMENTS VOICED DURING PUBLIC COMMENT PERIOD

Four sets of written comments were received by the Agency during the public comment period. The comments are listed below, in bold text, and EPA's response follows, in italicized text.

My one suggestion/question for EPA would be will they please make serious effort to keep not only the CAG meeting attendees informed of the cleanup process, but guarantee transparency and regularly provide information/updates for residents of Asheville, Black Mountain, Montreat...indeed all of Western North Carolina...newspapers, tv and radio...and administration at Warren Wilson College, the Swannanoa Valley Museum, etc.

EPA plans on keeping the public informed which includes the community, SSCAG and news media, as to the progress being made at the Chemtronics site, especially as major milestones are achieved. These milestones include: the signing of the ROD Amendment, approval of the Remedial Design, and the initiation and findings/completion of each Five-Year Review process. Individuals are also encourage to be added to EPA's Chemtronics mailing list which can be accomplished by contacting Ms. Angela Miller at miller.angela@epa.gov.

What is the process for the EPA to make the ROD public? Will it be through all media; newspaper, TV, radio, as well as hard copy documents to be stored in Warren Wilson College's library?

EPA will announce the issuance of the ROD Amendment through a public notice in the local newspaper, a fact sheet distributed to the site mailing list, as well as an email to the SSCAG. A copy of the ROD Amendment will be added to the Administrative Record. The Chemtronics Administrative Record can be found at the Ellison Library on the campus of Warren Wilson College, 701 Warren Wilson Road, Swannanoa, North Carolina and at EPA Region 4's Superfund Record Center located at 61 Forsyth Street, Atlanta, Georgia.

On page 2 of the Proposed Plan we find a paragraph in which the regulated Superfund site is declared to be 535 acres, rather than the 1065 acres of the property. We know that division of the property into a regulated area and a Delisted (an excluded area) has been the plan, and the community generally supports that. However, our comment:

This alteration of the regulated area should be established through its own formal process, rather than appearing as a paragraph in the “Site History” section of the Proposed Plan. The Record of Decision applies to the entire site, not just the portion with contamination. Also, regarding the Delisted portion of the property; Southern Appalachian Highlands Conservancy has been working with the EPA and the PRPs for many months, and we feel that adding more specific language regarding SAHC’s role in the ROD is necessary. Can the goals of SAHC be addressed in this portion of the ROD as well?

In accordance to the NCP, the boundary of a Superfund site is defined by the extent of contamination. Below is an excerpt from the actual NPL listing package (the Chemtronics Site was proposed for inclusion on the NPL in 1982, and added to the NPL in 1983 (Federal Register Vol 48, No. 175, pp: 40658 – 40673). In support of Site listing, USEPA prepared a Site narrative). The Site narrative describes the Site as:

“The Chemtronics, Inc., Site covers 10 acres in Swannanoa, North Carolina, in the Picrate Branch drainage basin. Two areas are involved. Number 1 consists of eight abandoned acid and organic waste pits used by Chemtronics and its predecessors. Number 2 consists of two lined basins for neutralization and equalization of wastes prior to their discharge into the Metropolitan Sewage District collection facilities.”

The following two EPA’s documents provide some guidance on defining a Superfund site:

- *Clarifying the Definition of ‘Site’ under the National Priorities List (May 1996)*
- *Partial Delisting Directive (OERR Directive 9320.2-11)(April 1996)*

Neither of these documents state that public comment/input is required in this process.

The ROD and ROD Amendment address the Site which is defined as those areas where contamination has come to lie. EPA has limited authority under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund). EPA can only take action when the risk exceeds EPA’s risk range. Therefore, EPA does not have authority on the non-contaminated areas. Consequently, EPA will not be involved in discussions/negotiations between Chemtronics and Southern Appalachian Highlands Conservancy (SAHC). Therefore, the forthcoming ROD will not include language with regards to the SAHC.

The Proposed Plan proposes soil excavation and removal at two sites in the Front Valley and at no sites in the Back Valley. The CAG has two questions:

What are the key considerations that support soil excavation and removal at only those two sites, as versus the several other sites under consideration?

In the presentation and discussion following, we have heard inconsistent information about whether the “off-site disposal area” would be one approved for hazardous waste disposal, or not. We want clarification on this. What are the precautions for disposal?

The two areas identified in the FV: B109-137 and B116 were the only areas on the Site where the levels of contamination in the soil resulted in an unacceptable future risk. The 1988 ROD found that the contaminated soils in the six capped disposal areas did pose an unacceptable risk; therefore, these soils were capped. By capping these soils, any potential complete exposure pathway to the soils was eliminated resulting in the elimination of any unacceptable risk associated with these soils. Without a complete pathway of exposure there can be no unacceptable risk. Therefore, there are no unacceptable risks associated with these capped soils.

The excavated contaminated soil will be disposed at an EPA approved landfill. EPA maintains a list of approved disposal facilities. Based on all the data collected during the Remedial Investigation, the Proposed Plan anticipated that the excavated soil will be non-hazardous. However, before the PRPs can ship the soil off-Site for disposal, the facility receiving the soil will require that the PRPs confirm that this soil is non-hazardous. This is accomplished through sampling and analysis of the excavated soils. If the soil is deemed hazardous, the PRPs will need to treat the soils on-Site to make them non-hazardous before the soils are shipped off-Site. Once the soils are confirmed to be non-hazardous, the soils will be transported off-Site. Typically, the beds of the dump trucks or containers are lined with plastic to reduce the chance of spillage.

Page 27 of the Proposed Plan is the only point at which the “Declaration of Perpetual Land Use Restrictions” is given any detail, and the detail is very scant. The CAG has these questions: What is the “DPLURs process” cited on page 27? Is there community involvement in that process?

Should, or will, the County responsible for the tax maps and tax assessment be involved in that process?

What is the time frame for DPLUR to be implemented?

Is the sole purpose of the DPLURs process here to implement these two controls: “1) limit the use of the Chemtronics Superfund Site to either commercial or industrial purposes and 2) restrict groundwater use and prevent the use of on-site groundwater for potable purposes” (p. 27)? Are any other restrictions going to be in place?

Are these considered permanent restrictions to the property deed, like conservation easement restrictions are?

“Restrict groundwater use” is separated from prevention of using on-site groundwater for potable purposes. What does “restrict groundwater use” refer to? Please clarify the language of this section. It seems that this section is in conflict with the ultimate goal of remediating the site to the point that the ground water once again becomes potable.

The State of North Carolina authority to implement a Declaration of Perpetual Land Use Restriction comes from Section 130A-310 through Section 130A-310.19 of the North Carolina General Statutes (“N.C.G.S.”). The real property which is the subject of this Declaration shall hereinafter be referred to as the “Site.” This Declaration is part of a Remedial Action Plan for the Site that has been approved by the Secretary of the North Carolina Department of Environment and Natural Resources (or its successor in function), or his/her delegate, as authorized by N.C.G.S. Section 130A-310.3(f). A copy of draft DPLUR language was included in the 2008 Administrative Order on Consent between the PRPs and EPA. There are no provisions in the DPLUR process for the public to be an active participant in this process. Whether or not this process will affect property taxes will need to be a discussion between

Chemtronics and Buncombe County. EPA will not be a part of this discussion. Negotiation to finalize the DPLUR language will begin after the issuance of the ROD Amendment and should take several months to complete.

Below is the list of restrictions included in the Draft DPLUR included in the 2008 AOC:

PERPETUAL LAND USE RESTRICTIONS

[Suggested wording for most common restrictions; add new ones and/or reword any of the below appropriate. 12-15 are mandatory]

1. The Site shall be used exclusively for commercial or industrial purposes but shall not be used for child care centers, schools, parks, recreational areas, or athletic fields.
2. The Site shall be used for open space only and for no other purpose. "Open space" for purposes of this restriction means an undeveloped, natural area where the sole human use shall be non-dermal recreational activities such as biking, hiking, running, hunting, fishing, and bird watching. The Site shall not be developed or utilized for residential, commercial or industrial purposes.
3. The Site shall not be used for sporting activities of any kind.
4. The Site shall not be used for any above- or below-ground construction, improvements (including, but not limited to, utilities, roads, and sidewalks). No alteration, disturbance or removal of the existing soil, landscape and contours shall occur other than erosion control measures approved by DENR or its successor in function.
5. The Site shall not be used for agricultural or grazing purposes or for timber production.
6. The Site shall not be used for kennels, private animal pens, or for riding clubs.
7. Any surface or underground water shall not be used for any purpose. The installation of groundwater wells or other devices for access to groundwater for any purpose other than monitoring groundwater quality is prohibited without prior approval by DENR, or its successor in function.
8. Groundwater beneath the Site shall not be used as a source of potable or irrigation water. The installation of groundwater wells or other devices for access to groundwater for any purpose other than monitoring groundwater quality is prohibited without prior approval by DENR, or its successor in function.
9. The Site shall not be used for mining, extraction of coal, oil, gas or any other minerals or non-mineral substances.
10. Mowing of vegetation and tree pruning is allowed on the Site.
- 11a. Activities necessary to maintain the security of the Site, prevent human exposure to contaminated materials, and to prevent erosion of the contaminated soil at the Site are permitted, if approved in advance

by DENR or its successor in function.

[or]

11a. Activities necessary to maintain the security and structural integrity of the landfill at the Site are permitted, if approved in advance by DENR or its successor in function.

11b. All other uses of the Site are prohibited, except as approved in writing by DENR or its successor in function.

12. No surface or subsurface native or fill earthen materials may be removed from the Site without the written permission of DENR or its successor in function.

13. Each person who owns any portion of the Site shall submit a letter report, containing the notarized signature of the owner, in January of each year on or before January 31st, to the Superfund Section of the Division of Waste Management of DENR, or its successor in function, confirming that this Declaration is still recorded in the Office of the [insert county] County Register of Deeds and that activities and conditions at the Site remain in compliance with the land use restrictions herein.

14. No person conducting environmental assessment or remediation at the Site, or involved in determining compliance with applicable land use restrictions, at the direction of, or pursuant to a permit or order issued by, DENR or its successor in function may be denied access to the Site for the purpose of conducting such activities.

15. Each person who owns any portion of the Site shall cause the instrument of any sale, lease, grant, or other transfer of any interest in the Site to include a provision expressly requiring the lessee, grantee, or transferee to comply with this Declaration. The failure to include such provision shall not affect the validity or applicability of any land use restriction in this Declaration.

It is anticipated that once groundwater is restored to beneficial use that those restrictions limiting the use of the groundwater could be removed.

This language reflects Chemtronics desire that they wanted to reserve the possibility of using non-contaminated groundwater for such things as irrigation in the higher elevations of the Property (non-Superfund portion of the property).

It is unclear to us where the final decision about the Proposed Plan and ultimate Record of Decision occur.

At what level, in the EPA chain of command, is the Proposed Plan, and the Record of Decision, approved?

The authority to sign Record of Decisions has been delegated from the EPA Administrator to the Regional Superfund Division Director level.

Pages 10-11 of the Proposed Plan recite the “remedial action objectives” (RAOs) that set the cleanup targets for this site. The first groundwater RAO is to “restore the quality of degraded groundwater to protective levels for ingestion and permit beneficial use of groundwater (including use as a future source of drinking water).” The timeframe for achievement of groundwater RAOs, using the alternatives the EPA recommends, are all “greater than 30 years.” The CAG has these questions:

The community wants to know how much greater than 30 years the EPA expects achievement of the groundwater RAOs will take.

Additionally, the community would appreciate some information to provide context for this—is “greater than 30 years” typical? How long does groundwater cleanup for the kind of contaminants prevalent at the Chemtronics site normally take?

As the previous plan (prior to the Pilot Tests and FS) has been directed more towards containment, rather than treatment; the time frame for treatment does seem excessively long. The community believes that taking yet another 30 years, after the site has been under active remediation for 20 years already, is excessive. We suggest that expenditure of a bit more effort, and expense, to address at least the most significant sources of the contamination, would be a better path. The PRPs have set aside funds for this remediation; and the community would like to know if additional funds would decrease the 30-year mark?

The 30 year timeframe comes from EPA’s RI/FS guidance which states, “In general, the period of performance for costing purposes should not exceed 30 years for the purpose of the detailed analysis.” For groundwater remediation efforts like the one at Chemtronics, the timeframe to achieve cleanup levels typically exceed the 30 year timeframe. The following are the estimated timeframes for the four areas in the FV to achieve groundwater cleanup levels: for area B104 → 20-70 years; for area B105 and B147 → 30-60 years; for area B139 → 10-40 years; and DA-23/B116 → 20-40 years. The following are the estimated timeframes for the two areas in the BV to achieve groundwater cleanup levels: for area DA-9 → 30-60 years and for area APA → 30-60 years. These timeframes are acceptable to EPA based on the information known about the Site. If there was a more efficient and faster way to restore the groundwater, this technology would have been included and evaluated in the 2016 Feasibility Study. Groundwater is extremely difficult to clean up and it takes a very long time.

Concerning the PRPs: The community feels that there must be provisions in place if the PRPs (Chemtronics and/or their parent companies) were to go out of business. What is the process for continuing the remediation of the site if that were to happen?

In the event that all three PRPs go out of business, the cost/responsibility of completing the remaining work will fall upon EPA.

In its current state, can the site be sold? Could the property be subdivided (Delisted) further? And would any subdivision (Delisting) have deed restrictions?

Yes, the property or sub-parts of the property can be sold. EPA has no authority in this arena. An agreement would need to be reached between the seller and buyer as to who will end up with the environmental liability associated with the Site. The entity that accepts this liability will be responsible

for completing the remedial action. EPA actually encourages putting back into productivity, non-productive, contaminated properties. Deed restrictions run with the property, so "Yes" the deed restrictions would remain with the property.

It is the Agency's understanding that Chemtronics is currently exploring options with the Southern Appalachian Highlands Conservancy to place the non-Superfund portion of the Property into a conservation easement under a deed restriction. The deed restrictions are intended to limit the future use of the property regardless of who owns the non-Superfund portion of the Property. The conservation easement process is independent of the NCDEQ Inactive Hazardous Sites Branch DPLUR process.

The CAG notes that, in the past, some of the wells of properties neighboring the Chemtronics site have been periodically sampled, to ensure the absence of site-related contamination. The community wants the Proposed Plan to include periodic sampling of residential wells in the vicinity of the site.

In the past, the sampling of private wells has been done on an "as need" basis. In the past, the PRPs have sampled newly installed private wells. However, based on the information gathered to date, the likelihood that contamination is leaving the Site via groundwater is minimal; therefore, the Agency does not deem it necessary to incorporate the requirement for off-Site sampling in the ROD Amendment. However, with that said, the PRPs have said that they are willing to sample private wells in the future on a by request basis.

As a component of the ROD Amendment No. 2, a Performance Monitoring Plan (PMP) will be developed as part of the Remedial Design phase which will be approved by EPA and NCDEQ. It is anticipated that periodic sampling of off-site residential wells will be included in this Performance Monitoring Plan.

What provisions are in place, if the Bioremediation doesn't work? Will the five-year review still be in place, to assess the property, in order to make course corrections? If/when there is data to indicate that Bioremediation might not be effective, what is the process for change?

EPA developed/instituted the Five-Year Review process for just this purpose. EPA evaluates the remedy implemented at each Superfund site across the country every five years, to ensure that the selected remedy is protective of human health and the environment. If necessary, the Five-Year Review could recommend replacing a remedy. If this was to happen, then a focused Feasibility Study would need to be completed to determine what technology should be implemented to replace the previously selected technology. This would be accomplished by EPA issuing a ROD Amendment or an Explanation of Significant Difference.

The CAG has appreciated, very much, the active engagement with the EPA and representatives of the PRPs, since the CAG became active in early 2013. This exchange of information, perspective, hopes and fears is fundamental to a positive future for these 1000 acres in the heart of the Swannanoa Valley. Therefore:

The community requests the regular reports, from the EPA and from the PRPs, to the community be expressly included as part of the Proposed Plan. We have appreciated this open relationship that our groups have established, and wish to continue.

Both EPA and the PRPs are committed to keeping information flowing to the public on a timely basis.